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18 *California Physicians' Service d/b/a Blue Shield Of*  
*California*

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 GARRISON L. SANDBERG,

22 Plaintiff,

23 vs.

24 CALIFORNIA PHYSICIANS'  
25 SERVICE D/B/A BLUE SHIELD OF  
CALIFORNIA,

26 Defendant.

27 ) Case No.: CV 12-03026 SBA

28 ) **JOINT STIPULATION RE**  
JOINT STIPULATION RE  
PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S MOTION TO  
DISMISS; [PROPOSED] ORDER

1 IT IS HEREBY STIPULATED by and between Plaintiff, Garrison L.  
2 Sandberg, by and through his attorneys of record, Kantor & Kantor LLP, and  
3 Defendant California Physicians' Service d/b/a Blue Shield Of California  
4 ("Defendant," or "Blue Shield"), by and through its attorneys of record, that::

- 5 1. On October 9, 2012, Blue Shield filed a Motion to Dismiss Plaintiff's  
6 second claim for relief in Plaintiff's First Amended Complaint. (ECF  
7 No. 28). The hearing on the Motion to Dismiss was noticed for  
8 November 16, 2012. At the time, the matter was assigned to the  
9 Honorable Charles R. Breyer.
- 10 2. On October 19, 2012, Judge Breyer filed an Order of Recusal in the  
11 matter and requested that the case be reassigned. (ECF No. 31).
- 12 3. On October 19, 2012, the case was reassigned to the Honorable  
13 Saundra B. Armstrong. (ECF No. 32). The hearing date for the motion  
14 to dismiss was vacated.
- 15 4. Plaintiff's opposition to the motion to dismiss was due on October 23,  
16 2012. However, Plaintiff's counsel's office incorrectly calendared the  
17 responsive deadline for the motion to dismiss when the case was  
18 reassigned to Judge Armstrong.
- 19 5. On October 30, 2012, Blue Shield re-noticed the hearing on the motion  
20 to dismiss for January 22, 2013. (ECF No. 35). Blue Shield filed a  
21 reply in support of its Motion to Dismiss as well, noting that Plaintiff  
22 had not opposed Blue Shield's Motion to Dismiss. (ECF No. 34).
- 23 6. Notwithstanding Plaintiff's failure to file a timely opposition brief and  
24 Blue Shield's position that Plaintiff's Second Claim for Relief (the only  
25 claim at issue in the Motion to Dismiss) fails as a matter of law, Blue  
26 Shield agrees that Plaintiff may file an opposition to Blue Shield's  
27 Motion to Dismiss if permitted by the Court to do so.

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7. The parties further agree that Blue Shield shall not be prejudiced by this stipulation.
8. Plaintiff's Opposition to Defendant's Motion to Dismiss is lodged concurrently with this Joint Stipulation.
9. The parties agree that Blue Shield may file a reply to Plaintiff's opposition to the motion to dismiss within 7 days after any Order by this Court permitting Plaintiff to file an Opposition.

## IT IS SO STIPULATED.

Respectfully submitted,

Dated: November 14, 2012

## KANTOR & KANTOR LLP

BY: /s/ Elizabeth K. Green  
Elizabeth K. Green  
Attorneys for Plaintiff  
Garrison L. Sandberg

Dated: November 14, 2012

MANATT, PHELPS & PHILLIPS, LLP

BY: /s/ Amanda M. Knudsen  
Amanda M. Knudsen  
Attorneys for Defendant  
California Physicians' Service  
d/b/a Blue Shield Of California

*Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, Elizabeth K. Green hereby attests that concurrence in the filing of this document has been obtained.*

1                   [PROPOSED] ORDER  
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4                   The Court, having considered the parties' Joint Stipulation Re Plaintiff's  
5                   Opposition To Defendant's Motion To Dismiss, and finding good cause thereon,  
6                   hereby orders that Plaintiff's Opposition to Defendant's Motion to Dismiss is  
7                   deemed filed as of the date of this Order. Defendant may file and serve its reply to  
8                   Plaintiff's opposition, in accordance with Local Rule 7-3(c), not more than 7 days  
9                   after the date of this Order permitting Plaintiff to file an Opposition. *The parties*  
10                  *shall deliver courtesy copies of all motion papers to Judge Armstrong at the*  
11                  *Clerk's Office at the Oakland Courthouse within 14 days of the date this order is*  
12                  *filed.*

13                  IT IS SO ORDERED.  
14                  Dated: 11-16-12

15                    
16                  UNITED STATES DISTRICT COURT  
17                  HON.SAUNDRA BROWN ARMSTRONG  
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